In the Matter Of:

KELLI DENISE GOODE vs

CITY OF SOUTHAVEN

3:17-cv-060-DMB-RP

ERIN BARNHART

September 20, 2017

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION

KELLI DENISE GOODE, Individually, and also as the Personal Representative of Troy Charlton Goode, Deceased, and as Mother, Natural Guardian, and Next Friend of R.G., a Minor, and also on behalf of all similarly situated persons, Plaintiff,	)	
v.	)	Civil Action No. 3:17-cv-060-DMB-RP
THE CITY OF SOUTHAVEN, et al., Defendants.	)	

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ORAL AND VIDEOTAPED DEPOSITION OF

ERIN BARNHART, M.D.

September 20, 2017

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ORAL AND VIDEOTAPED DEPOSITION OF ERIN BARNHART, M.D., produced as a witness at the instance of Mr. Tim Edwards, counsel for Plaintiff, was taken in the above-styled and numbered cause on September 20, 2017, from 11:32 a.m. to 1:56 p.m., before Julie R. Borski, Certified Shorthand Reporter, in and for the State of Texas, reported by computerized stenotype machine at the offices of The Lanier Law Firm, 6810 FM 1960 West, Houston, Texas, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.

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ALSO PRESENT:

Mr. Trey Solis, The Videographer

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EXHIBITS

THE VIDEOGRAPHER: Today is September 20th, 2017. The time is approximately 11:32 a.m. This deposition is being taken at the Lanier Law Firm, 6810 FM-1960 West, Houston, Texas 77069. This is the case number, 3:17-cv-060-DMB-RP, filed in the United States District Court for the Northern District of Mississippi, Oxford Division in the case Kelli Denise Goode, et al., versus the City of Southaven, et al. The deponent today is Erin Barnhart, M.D.

Counsel, will you please represent yourselves, after which the court reporter will swear in the witness.

MR. EDWARDS: Tim Edwards and Kevin McCormack for Mrs. Goode.

MR. UPCHURCH: David Upchurch on behalf of the defendant Baptist Memorial Hospital-DeSoto, Inc.

MR. PHILLIPS: Marty Phillips and Ric Gass for Dr. Oliver.

MR. MCCRACKEN: Matt McCracken for Dr. Barnhart.

MR. JORDAN: Trey Jordan participating by telephone for Southeast Emergency Physicians.

MR. DILLARD: Brad Dillard via telephone for the Southaven defendants.

MR. EASTLAND: Hiram Eastland and Jim

Garrett attending by telephone for Goode plaintiffs.

ERIN BARNHART, M.D.,

having been first duly sworn, testified as follows:

E X A M I N A T I O N

BY MR. EDWARDS:

Q. Your name, please, ma'am.

A. Erin Barnhart.

Q. And you are Dr. Barnhart?

A. I am.

Q. You are a medical doctor?

A. Yes.

Q. And as a forensic pathologist -- which is your field, correct?

A. That's correct.

Q. All right. I assume you've given depositions before?

A. I have.

Q. Okay. If you don't understand any of my questions, please tell me. All right?

A. All right.

Q. Okay. What is your current job position?

A. I'm currently the chief medical examiner for Galveston County.

Q. And how long have you held that position?

A. Since October 15th of 2015.

Q. All right. And so you also live in Galveston?
A. I do.
Q. Since you are more than 100 miles from the courthouse where this case will be tried, we are taking your deposition in lieu of appearance because you're too far for a subpoena.
Do you understand that?
A. Yes.
Q. So your testimony here today is if -- is as if you were in a courtroom, right?
A. Yes.
Q. Okay. Now, before you went to Galveston -- you're a chief medical examiner?
A. I currently am, yes.
Q. Okay. What does that mean? That it's only temporary or...
A. No. It means I oversee the office.
Q. And before you took -- you came to Galveston, you were employed by the State of Mississippi medical examiner's office?
A. That's correct.
Q. How long were you there?
A. For almost four and a half years.
Q. And what was your position at the Mississippi ME's office?

A. I was deputy chief medical examiner.

Q. Was that your position throughout your four and a half years?

A. It was.

Q. Did you work somewhere before coming to -- to Jackson, Mississippi?

A. No. Prior to that, I was in training.

Q. Where did you do your training?

A. I completed my pathology residency at University of Texas Medical Branch in Galveston. I completed my forensic pathology training at Miami-Dade County Medical Examiner's office in Miami, Florida, and I completed a surgical pathology fellowship back at UTMB in Galveston. After that, I moved to Jackson to assume my position there.

Q. I see.

And your field of medicine is -- well, what is your field of medicine?

A. The forensic pathology is a subset of anatomic pathology which deals specifically with the determination of the cause and manner of death.

Q. Okay. Are there any other medical specialties which focus on the determining cause of death?

A. No.

Q. Is the American Journal of Forensic Medicine

and Pathology a publication upon which professionals in your field rely?

A. It would -- it's -- it's one of many journals --

Q. Right.

A. -- yes.

Q. Do you consider it authoritative?

A. I actually don't take it myself, but it's -- it's a commonly-read journal.

Q. Is it peer -- are the articles in that journal peer-reviewed?

A. I believe some are.

Q. Okay. Are there journals that -- in your field which you would point out as being authoritative and reliable?

A. Again, there -- there are many journals out there, some better than others.

Q. Is there one upon which you particularly rely or read on a regular basis?

A. No. I would say it goes on -- on an article-by-article basis.

Q. All right. You performed the autopsy on Troy Goode; is that correct?

A. I did.

Q. And that was on July 20, 2015?

A. Yes.

Q. Okay. And have you reviewed that autopsy report recently?

A. I have.

MR. EDWARDS: Well, so what we'll do is mark that as Exhibit 1.

And I'll hand that to you.

(Exhibit Number 1 marked.)

Q. (BY MR. EDWARDS) And you should feel free to rely upon that as needed. I want to ask you a few things about the report, Doctor.

In that report, you note that Mr. Goode's lungs weighed 900 grams and 840 grams?

A. Yes.

Q. That is approximately double the normal weight for a healthy individual?

A. Approximately, yes.

Q. Okay. Mr. Goode's lungs were much heavier than normal because of buildup of fluid?

A. That's right.

Q. And fluid in lungs can accumulate as a result of asphyxia?

MR. PHILLIPS: Objection, leading.

MR. UPCHURCH: Join.

A. The fluid in the lungs is a very non-specific

finding. I would say probably over half of all of our decedents have pulmonary edema. Fluid builds up in the lungs as the heart stops beating and as the lungs stop working.

Q. (BY MR. EDWARDS) Can fluid buildup be a result of asphyxia?

A. It can, yes.

Q. What is asphyxia?

A. Asphyxia is a -- is a general term relating to lack of oxygenation. It can be due to a variety of mechanisms.

Q. Well, generally when you speak of asphyxia, are you talking about lack of oxygen?

A. Yes.

Q. You also found that Mr. Goode's liver, kidneys and spleen were congested?

A. Yes.

Q. Were they congested with fluid?

A. Congested with blood.

Q. All right. Was the congestion in his liver, kidneys and spleen consistent with a lack of oxygen?

A. Again, congestion is extremely non-specific, found in the majority of our decedents and would not make me favor one -- one cause of death over any other, really.

Q. All right. Do you -- can lack of oxygen result in a buildup of fluid in the liver, kidneys and spleen?

A. I would -- the heart ceasing to beat in anyone will lead to a buildup of blood in the organs.

Q. All right. Thank you, but can you answer my question.

Would a lack of oxygen -- could a lack of oxygen lead to a buildup of fluid in the liver, kidneys and spleen?

A. It's possible, but I don't believe it would be due to the lack of oxygen specifically.

Q. Well, certainly a buildup in liver, kidneys and spleen does not rule out lack of oxygen?

A. It would not rule it out, no.

Q. Is congestion of internal organs a common finding in asphyxia cases?

A. It's common in general.

Q. Is it common in asphyxia cases?

A. Yes.

Q. You also noted that there were petechiae.

Am I pronouncing that correctly?

A. Petechiae.

Q. Petechiae in Mr. Goode's back and lateral torso; is that correct?

A. I did, yes.

Q. Are petechiae a common finding where the individual dies of asphyxia?

A. They are associated with asphyxia most often when they're found in the islets, or the conjunctival surfaces, the inner aspects of the eyelids. They can be positional in nature, meaning the dependant portion of a decedent can accumulate petechiae. Again, they're quite non-specific.

Q. Okay. But my question was are petechiae a common finding where an individual dies of asphyxia?

A. They're fairly common.

Q. In your report, you note that findings on microscopic exam of lungs was alternating areas of hyperexpansion in at -- atelectasis; is that correct?

A. Yes.

Q. What does that mean?

A. It's very common and it means that some portions of the lungs are overinflated and some areas are under-inflated.

Q. Is it a -- an abnormal finding?

A. I would -- no. And -- and it's often due to our handling of the lung tissue. Obviously during removal and sectioning of the tissue, we're placing pressure on it, so a lot of that may be artifactual.

Q. Can a finding -- is a finding of atelectasis

and alternating areas of -- with hyperexpansion consistent with oxygen deprivation?

A. I wouldn't say they're associated, no.

Q. Well, is it consistent with oxygen deprivation, those findings?

A. Again, I don't think there's any association between the two.

Q. All right. Is there peer-reviewed literature that would be at variance with your answer?

A. I have no idea.

Q. Are you aware of any literature that says alternating areas of hyperexpansion and collapse are a common histological finding in cases of asphyxia?

A. I'm not aware of that.

Q. Did you look into Mr. Goode's medical background before signing your report?

A. I was given some medical records from the day that he died. I don't recall having any other medical records other than -- than those from his terminal admission.

Q. Okay. And those would have been from Baptist Memorial Hospital --

A. I believe --

Q. -- DeSoto?

A. -- so.

Q. Was there anything to indicate that Mr. Goode had a history which contributed to or caused his death?

A. Not that I was aware of, no.

Q. There was nothing in his history that would lead you to conclude that a condition existing before he was shackled and chained would have been a substantial contributing cause to his death?

A. No.

Q. You put in your report that the cause of death was, quote, complications of LSD toxicity, right?

A. Yes.

Q. What does that mean?

A. Frankly, it's rather broad and I intended it to mean that the ingestion of LSD was the precipitating factor that led to the series of events ending in his death.

Q. Was the precipitating factor of what events?

A. His death.

Q. Well, LSD does not cause death.

A. I -- I would generally agree with you.

Q. Well, do you know of any situation where LSD toxicity has caused death?

A. No.

Q. None in the literature either, correct?

A. Not that I know of.

Q. LSD is not addictive, correct?

MR. PHILLIPS: Objection, leading.

Q. (BY MR. EDWARDS) Is LSD addictive?

A. To my knowledge, no.

Q. Is LSD a stimulant?

A. I'm -- I'm probably not -- not qualified to answer that. I know it can have some stimulant qualities.

Q. Do you know if L -- that's a bad question.

Does LSD cause severe stimulation of the central nervous system?

A. Yes.

Q. It does?

A. To my knowledge, yes.

Q. Can you cite us to any authority on that?

A. Generally the symptoms include psychosis, paranoia, hyperactivity. Those would -- to me, would seem to be nervous system stimulation.

Q. In your opinion, does LSD have the same physiologic effects as alcohol, cocaine or amphetamines?

A. It's a different class of drugs.

Q. So your answer is, no, it does not have the same physiologic effects?

A. It probably has some overlapping physiologic effects.

Q. Like what?

A. Hyperactivity, hallucinations, paranoia, potential psychosis.

Q. All right. What about stimulation of -- of aggressive tendencies?

A. I think that's a possible side effect of many substances.

Q. Can you give us any reference to where LSD has made someone aggressive?

A. I can't -- I can't cite any sort of case report.

Q. All right. LS -- LSD is a hallucinogenic; is that correct?

A. Yes.

Q. Is it in the same category as drugs such as peyote?

A. I think so, yes.

Q. Peyote is a naturally-occurring substance used in religious ceremonies among Southwest U.S. Indian tribes?

MR. PHILLIPS: Objection, leading.

Q. (BY MR. EDWARDS) To your knowledge?

A. I'll -- I'll take your word for it. Yes, that's what I've heard.

Q. Okay. And same question about psilocybin

mushrooms. Is that an hallucinogenic?

A. I believe it is, yes.

Q. Are you familiar with the -- the naturally-occurring drug known as ayahuasca?

A. No.

Q. Is there any scientific evidence that supports the proposition that hallucinogenics from a toxicity standpoint cause death?

A. From a toxicity standpoint, I don't know of any data to that effect.

Q. In contrast, is cocaine known to cause death?

A. Possibly, yes.

Q. Right. Not always, but there have been many reports of cocaine-related deaths in your profession?

A. Yes, generally in combination with other -- other drugs.

Q. All right. Methamphetamine is another drug which is known among forensic pathologists to be a possible cause of death?

A. Yes.

Q. Are you familiar with the term excited delirium?

A. I am, yes.

Q. And how are you familiar with that?

A. I actually believe that Mr. Goode's death and

the circumstances leading to his death are highly suspicious for excited delirium.

Q. You did not put that in your report, did you?

A. I did not, but I believe that it falls under the heading of complications of LSD toxicity.

Q. Well, do you know Dr. De Maio?

A. I do.

Q. Did you talk to --

A. I'm sorry.

Q. Who sent you a text --

A. I'm sorry. Not personally. Let me rephrase --

Q. Okay.

A. -- that. I know of him.

Q. Have you talked to Dr. Di Maio?

A. No.

Q. Have you seen Dr. Di Maio's book on excited delirium?

A. I believe I have.

Q. Are you aware that Dr. Di Maio says that when there is a forensic pathology diagnosis of excited delirium, that that should be in the report on -- of autopsy?

A. I think you would have to say that on a case-by-case basis.

Q. Well, let me see if I can...

MR. EDWARDS: No, let me use that one.

Q. (BY MR. EDWARDS) Have you seen this --

A. I have --

Q. -- text?

A. -- yes.

Q. It is Forensic Pathology Second Edition by Dr. Di Maio, and apparently, his brother.

There are two of them?

A. Yes.

Q. Let me see if I can find this, Doctor.

Dr. Di Maio says the -- in the aforementioned cases -- and this is on excited delirium, and you're welcome to look at this. In the aforementioned cases, the authors suggest two ways of certifying the cause of death. First is to sign out the cause of death as, quote, excited delirium, unquote, and then list, quote, struggle, unquote, quote, cocaine intoxication, unquote, et cetera, as contributory causes.

The other way is to sign out the cause of death in a descriptive manner, for instance, cardiopulmonary arrest during violent struggle and individual under influence of cocaine, alcohol, et cetera.

Do you agree or disagree with Dr. Di Maio?

A. I think it's a fine suggestion. I don't think he meant -- intended it to be an order.

Q. Okay. Why did you not list excited delirium as a cause of death?

A. Frankly, because Mr. Goode did not have a recorded fever that I could find in his medical records. If there had been proof of hypothermia, I think I would have gone that route.

Q. Well, you bring up a good point.

Doctor -- Dr. Stratton, who is one of the people referenced by Dr. Vilke who has been disclosed in this case, says that hypothermia is invariably present in cases deemed to be cases of death caused by excited delirium.

Do you agree or disagree?

A. I -- I think generally it is a feature which is, again, why I didn't call this excited delirium.

Q. No, I'm sorry. Doctor -- Dr. Stratton, relying upon some articles or some writings by Dr. Karch -- are you familiar with Dr. Karch in Great Britain?

A. I believe I've heard of him, yes.

Q. Okay. Dr. Stratton and Dr. Karch say that invariably, hyperthermia is present in cases deemed to be those of death caused by excited delirium.

Do you agree or disagree?

MR. PHILLIPS: I'll object to the statements of counsel and the lack of foundation.

MR. EDWARDS: Okay.

A. Generally I agree, which is, again, why I did not call this excited delirium.

Q. (BY MR. EDWARDS) All right. What -- what findings other than -- what findings were there that would have even raised excited delirium as a cause of death, in your mind?

A. The circumstantial information regarding his behavior, which was -- seemed to be hyperactive, loud and incoherent shouting, paranoia, possible aggression, erratic behavior, all of which reportedly occurred subsequent to the ingestion of a drug, I think, would make any forensic pathologist very suspicious for excited delirium.

MR. GASS: Tim, this is Ric Gass. Could you give us the page you were quoting from in Di Maio, please.

MR. EDWARDS: 504.

MR. GASS: Thank you.

THE WITNESS: Would you mind if I looked at that book?

MR. EDWARDS: You may look at anything you like.

THE WITNESS: Thank you.

MR. EDWARDS: Uh-huh. And I should say, Doctor, any time you want to see anything, you are certainly welcome to do it, so please just tell me.

Q. (BY MR. EDWARDS) Dr. Vilke in some of his writings -- first of all, let me ask you this.

Is the Journal of Emergency Medicine one with which you are familiar?

A. Honestly, I'm not very familiar with journals and other specialties.

Q. Okay. Well, Dr. Vilke wrote that -- about excited delirium, "Most of these cases were found to be associated with the introduction and abuse of cocaine in North America. Since then, this connection between excited delirium and cocaine has continued. Additionally, excited delirium has now been recognized to occur in association with other elicit drugs of abuse, particularly cocaine, methamphetamine and PCP, as well as with certain types of mental illness and their associated treatment and medications."

Would you agree or disagree with Dr. Vilke?

A. I would agree.

Q. Okay. Dr. Vilke -- well, let me ask you this.

Are you aware of any situations, cases, literature, that says LSD is a cause of excited

delirium?

A. Not specifically, but I have heard it mentioned in association with excited delirium. I feel confident that -- that some case could be found.

Q. Do you know of any?

A. No.

Q. What is the mechanism by which excited delirium causes death?

A. I don't know that it's known exactly, but it's, I -- I think, known to -- or thought to be neurologically mediated in combination with ill effects on the heart resulting from things like catecholamine release and electrolyte disturbances in the body.

Q. Did you check Mr. Goode's catecholamine level?

A. No. Postmortem catecholamines are not reliable.

Q. Okay. Can you direct us to any authority that says LSD has an impact on the heart?

A. I wouldn't know who to direct you to to answer that.

MR. JORDAN: And I apologize, folks. Our siren is just going off here. This is Trey Jordan. Is this -- is this impacting your ability to hear?

MR. EDWARDS: It's rather a nuisance, yes.

MR. MCCRACKEN: It's not for whom the bell

tolls.

MR. JORDAN: I'm just going to cover up the phone. Sorry about that.

MR. GASS: Trey, don't you have a mute button you could push?

MR. EDWARDS: Okay.

Q. (BY MR. EDWARDS) Doctor, did you consider the fact that Mr. Goode was hog-tied, also known as maximal restraint, as a complication of LSD?

A. I'm sorry. Can you re-ask the question.

Q. Yes.

In reaching the conclusion in your report, did you consider the fact that Mr. Goode was hog-tied in maximal restraint as a complication of LSD?

A. I -- I considered it in my -- I definitely considered it. I believe in part, that is encompassed under this umbrella of complications of LSD toxicity.

So, yes, I would say -- if -- if the question is do I include that underneath this umbrella of complications, I would say yes.

Q. Okay. And how was it, in your opinion, that the hog-tieing contributed to his death?

A. I -- I think --

MR. DILLARD: This is Brad Dillard. I'm going to object to the use of the term "hog-tied."

MR. EDWARDS: Well, your experts have -- who have been disclosed refer to it as "hog-tide."

MR. DILLARD: I made my objection. Thank you.

MR. PHILLIPS: I'll object as lacking foundation for the question also.

Q. (BY MR. EDWARDS) Go ahead, Doctor.

A. I'm sorry. I --

MR. DILLARD: The same objection.

A. -- forgot the question.

Q. (BY MR. EDWARDS) Yeah. How, in your opinion, based upon a reasonable degree of medical certainty, did the method of restraint known as maximal restraint or hog-tieing, also in a prone position, contribute to the death of Mr. Goode?

A. I'm not sure that it did contribute. I think that the -- the part of it that I considered was the fact that it could have led to increased agitation, increased psychosis, increased metabolic demands on the body, which would have worsened his excited delirium, potentially.

Q. Right. Okay.

Is it your experience that somebody that is bound in such a fashion is typically in a quite excited state?

A. Yes, I think that would go without saying.

Q. Is that what we lay people might call the flight-or-fight syndrome?

A. I think so.

Q. Okay. Now, following on up, the agitation increase caused by the method of restraint would have what physiologic effects?

A. I don't know that I can say exactly. I think that probably depends on the individual. It depends on the environment. It depends on a host of other factors, if they have natural illness, if they're intoxicated, if they're on drugs.

But, again, I think -- I think the potential for increased catecholamine release, increased stress on the heart, is -- is a possibility.

Q. From the method of restraint?

A. Or from just being restrained in general.

Q. Well, have you ever dealt with a case involving a decedent who had been restrained in a hog-tied fashion?

A. I feel certain that I have, but I can't think of a specific case.

Q. What, from your point of view, would have been the situation with Mr. Goode's breathing immediately preceding death? Would he have had agonal breathing?

MR. UPCHURCH: Object to the form.

A. No, I can't say that he definitely would have had agonal breathing.

Q. (BY MR. EDWARDS) Would he have simply stopped breathing, going from normal breathing to stopping breathing?

A. I think that's probably more likely, but, again, I -- I -- I can't be certain. I wasn't there.

Q. So you can't say to a reasonable degree of medical certainty whether or not he went through some transitional phase from being healthy to dead?

A. I don't think I can, no.

Q. All right. What about his heartbeat? Do you have an opinion as to whether immediately preceding death, his heartbeat would have been in sinus rhythm or in arrhythmia?

A. I would expect there to be arrhythmias in anyone who's actively dying, so to speak. But I can't say what -- what type of arrhythmia he would have had, no.

Q. Do you have any evidence that he was in arrhythmia well before his death?

A. I don't recall any of that specifically.

Q. Did you receive the records from the emergence -- emergency medical services?

A. I -- I think I did, but I can't be certain. It was a long time ago.

Q. If the EMS had recorded SVT, supraventricular tachycardia, would that be of significance to you in your professional capacity?

A. It wouldn't change anything about my diagnosis. It -- it means that his -- his heart was beating very fast, which under the circumstances, I don't think is surprising.

Q. Did you review the monitoring of his heart rate while he was at Baptist Hospital?

A. The actual EKG strips?

Q. Yes.

A. I would not have, no.

Q. Did you review the monitoring of his blood oxygen saturation while he was at the Baptist Hospital?

A. Again, I did review some medical records, but I don't recall -- I'm not sure if it was all of them.

Q. Well, did you see any monitoring of his blood saturation?

A. Not that I recall.

Q. Is that something which you would have liked to have seen in order to reach your opinion?

A. It would be helpful.

Q. I believe that -- do you know Gary Vilke?

A. No.

Q. You mentioned agitation, acidosis and maybe something else as a result of excited delirium; is that correct?

A. I did not mention acidosis.

Q. You did not?

A. No.

Q. All right. Is acidosis a complication of excited delirium?

A. I wouldn't say so specifically. That's more of a metabolic derangement.

Q. Okay. So can this concept of excited delirium cause acidosis?

A. Probably, but I -- I -- that's -- it's not something that I would rely on to make the diagnosis.

Q. Can excited delirium be managed with standard medical interventions?

MR. PHILLIPS: Objection, lack of foundation, lack of qualification and beyond the scope of her role as a forensic pathologist.

Q. (BY MR. EDWARDS) You may answer, Doctor.

A. I don't treat live patients.

Q. So do you -- do you not know one way or another as to whether excited delirium is treatable medically?

A. No, I really don't.

Q. Okay. Does everybody in excited delirium die?

A. I'm not sure that all do; but I know that if not all, then a very, very high percentage of people do.

Q. A very high percentage?

A. I guess what I'm saying is there may be some people who have survived excited delirium. I have not heard of any of those cases specifically.

Q. Well, if Dr. Vilke says it's less than 10 percent death rate in people with excited delirium, would you take issue with that?

A. No. And, again, I'm probably getting into an area that I -- that I'm not an expert in. I'm not sure what the survival rate is. Because, again, I only see people who haven't survived things.

Q. Okay. But you do agree that tactile hyper -- hyperthermia is always associated with excited delirium?

A. I'm not sure that it always is, but to my knowledge, it generally is.

Q. Would you argue with the statement that it is invariably associated with excited delirium death?

A. I don't know that I would argue with it.

Q. All right. And in your report, you indicated that Mr. Goode was restrained after a struggle; is that correct?

A. In the opinion section? Yes, I did.

Q. All right. And how did you come to have that information?

A. The information that I had, or would have had, I believe, at the time of autopsy would have come from the investigator -- who in Mississippi is the coroner -- and then potentially EMS reports, police reports and medical records.

Q. Well, what was the struggle which was related to you?

A. As I recall, he was running around in a parking lot. I think there was even an attempt to taze him which failed. And I guess, frankly, part of it is the assumption that if you end up restrained on a gurney, there was a struggle to get you onto the gurney.

Q. An assumption?

A. I -- I don't recall specifically what information I had and from whom, but simply that he did struggle with law enforcement officers who were trying to, I guess, take him into custody or take him to the hospital.

Q. How many law enforcement officers did it require to subdue him?

A. I don't have any idea.

Q. In these cases of excited delirium where they talk about super human strength, it typically takes,

what, six, seven, eight officers to subdue those people?

A. Oh, I would say it depends on the person being subdued and probably -- probably what drugs they're on.

Q. Certainly cocaine is a drug that would cause one to become in an excited agitated state?

A. I would think so, yes.

Q. Yeah. And cocaine is one which you have seen or have seen reports of that caused the person to be -- to be aggressive towards police?

A. Yes.

Q. Mr. Goode was a small man?

A. He wasn't small, but he was not -- he wasn't -- he certainly wasn't obese. A hundred and seventy pounds, 72 inches is what I have.

Q. Where did you get 172 pounds?

A. We would have weighed him at the morgue.

Q. All right. Now, you noted in here in your report I'm still referring to, that he had some abrasions on his right cheek and chin; is that accurate?

A. Yes.

Q. Was it reported to you where he got those?

A. No, I don't believe so.

Q. Let me back up to the struggle thing.

Was it reported to you that Mr. Goode was threatening the police officers?

A. I don't recall having that information, no.

Q. Was it reported to you that Mr. Goode was unarmed?

A. I don't know that that was specifically reported to me. I didn't -- I was never told that he was armed.

Q. All right. In your report, going back to the opinion section, you specifically noted that emergency records indicate the body temperature was normal?

A. I did.

Q. And the reason you did that is because that was a finding -- if his body temperature had been elevated, that would be a finding that is invariably associated with excited delirium?

A. I included that -- generally, I include my opinion section to serve as sort of a -- a general outline of my -- or a general summary of my thought process in order for -- if another doctor comes behind me and reviews my report, to know what I was thinking. And I know that probably if they had the case information, their question would be why didn't she call this excited delirium. So I -- I put that sentence in there basically to answer that question.

Q. Because he didn't -- his temperature was normal, you did not conclude it was excited delirium?

A. Well -- and, again, I -- I -- I think I only had one reading from the emergency room, so I didn't have anything from EMS. I didn't have anything prior to when EMS got there. And I couldn't be sure that he wasn't given medication that could have lowered a fever. I just didn't have any of that information. So that's why I mentioned specifically in the emergency room he didn't have a fever.

Q. Right.

And you do recall that the temperature was taken at triage before he was medicated, right?

A. No, I don't recall when it was.

Q. If he was -- if he had a normal temperature upon arrival and presentation at the emergency department, then he did not have elevated body temperature, right?

A. I think he could have prior to that.

Q. You -- do you have any evidence of that?

A. No, but I don't have any evidence that he didn't.

Q. Well, is that the way you make your decisions as to cause of death, is speculation?

A. Of course not.

Q. You looked for elevated temperature specifically trying to link the death to the syndrome

that some recognize as excited delirium?

A. I was -- I was looking for that because everything about this case seemed consistent with it.

Q. But the finding normal body temperature rules out excited delirium?

A. I don't know that it does. And, again, I only have, you know, one single reading.

Q. Correct. But assuming that there's no evidence that he was of elevated temperature, and you don't have an essential element for concluding excited delirium?

A. I think it's -- I think one could argue that excited delirium may be possible without hypothermia.

Q. Point -- point me to any authority that says that.

A. I can't.

Q. Okay. In fact, Dr. Stratton, et al., in an article relied upon by a number of people say -- says, "Hypothermia is important when considering factors associated with sudden death with restrained excited delirium."

Do you agree?

A. So he says important. I don't disagree that it's important.

Q. He goes on and says, "Karch and others have noted that those who died from restrained excited

delirium are invariably hypothermic."

Agree or disagree?

A. Again, it is generally considered to be part of excited delirium. I'm not arguing that point.

Q. But the lack of hypothermia is the reason that you could not put into your report death due to excited delirium?

A. It's the reason I chose to be more general.

Q. Now, Doctor, help with this pronunciation.

Is it subgaleal?

A. Subgaleal.

Q. Subgaleal? You found subgaleal hemorrhage on both sides of the parietal skull; is that correct?

A. Yes.

Q. For the jury's benefit, would you put your hand up to the area that is the parietal skull.

A. The parietal skull is the -- is the upper lateral portion of the skull.

Q. And by lateral, you mean rear?

A. No.

Q. Or sides?

A. I mean sides.

Q. Okay. Is it more to the rear of the head than it is to the front?

A. No. Lateral would be, you know, anywhere along

the side of the head.

Q. What were your findings about the subgaleal bleeding -- or hemorrhage? I'm sorry.

A. Nothing specific. Subgaleal hemorrhage is just essentially a bruise of the scalp.

Q. Well, how does that happen?

A. From -- from -- from contact with some object.

Q. Right.

Well, you understand that his -- that Mr. Goode's hands were handcuffed behind him?

A. Yes.

Q. And his legs were shackled?

A. I don't know that I know that specifically, but that's what I've heard.

Q. And that his legs and hands were bound together behind his back?

A. Again, I -- I've heard suggestion of that, but I haven't seen anything definitive.

Q. Okay. And he was prone, facedown?

A. Yes.

Q. Well, my question, then, is how did these -- this hemorrhaging on both sides of his head occur?

A. My -- my best guess would be that he had his face -- his head alternately turned from one side or the other and there were impacts on these sides of his head.

Q. And you think that would be possible from a hog-tied position?

A. That he could move his head? Yes.

Q. And bang his head down?

A. I think it's possible.

Q. Do you know?

A. No, I suppose not.

Q. The subgaleal hemorrhaging also should -- could have occurred from someone striking Mr. Goode?

A. Yes, it could have.

Q. Nowhere in your report do you mention the manner of restraint, whether hog-tied or maximal prone position restraint.

Why is that?

A. First of all, hog-tied, I think, is more of a colloquial term. I don't know that there's any specific definition of what it is. I know what I picture when you say that. And to the best of my recollection, I knew that his arms and legs were restrained, but beyond that, I don't know that I know a whole lot else about -- I never saw any photographs, for example. I'll put it that way.

Q. Did you ever look at the YouTube video of the placing of -- of Mr. Goode into the ambulance?

A. I did see a video, I believe -- well, when I

was still in Mississippi and the coroner may have shown it to me, but I don't have any idea. And actually, I didn't realize it was on YouTube. If it was on YouTube, then somebody in my office could have shown it to me also.

And I do recall that he was on a -- a gurney outside an ambulance and that -- I definitely remember that his wrists were behind him.

Q. You mentioned hog-tie is colloquial?

A. Well, I don't know that there's -- I'm not sure that there's a specific definition.

Q. Okay. Is -- is hog-tie something that is used among forensic pathologists in describing a manner of restraint?

A. I certainly wouldn't. I'm sure there are some who would.

Q. Well, Dr. Vilke who is not a forensic pathologist said that "ankle and/or leg restraints connected in a hog-tied fashion, also known as position of maximal restraint." And my question is hog-tie is something that is not a NAPAMA to the medical profession insofar as use to describe a manner of restraint, is it?

A. Again, I would never use that term. I -- I'm not -- I -- I'm sure others would, clearly.

Q. Do you fault those that would use it?

A. That's their choice.

Q. Well, there's nothing professional that would bar using that term, is there?

A. I --

Q. Let me --

A. I think it would be -- okay. I'm sorry.

Q. Let me re-ask.

There's nothing in your specialty of forensic pathology which would bar using the term "hog-tie"?

A. Not specifically.

Q. In your -- the course of your education and training, were you educated about the dangers of hog-tieing someone?

A. Not specifically, no.

Q. Well, what about generally?

A. It's -- it's something that's discussed within forensic pathology, but we don't restrain anyone, so I'm not sure why we would specifically be educated in its dangers.

Q. Well, within the discussions in forensic pathology, is it pointed out that hog-tieing poses a danger to the person in that type of restraint?

A. I think there's some debate about that.

Q. Are there forensic pathologists who caution

against hog-tieing?

A. Probably.

Q. Are there forensic pathologists who caution against holding somebody in a prone position?

MR. PHILLIPS: I'll object to this line of questioning as outside her role as a forensic pathologist who did the autopsy. She's not been designated as an expert witness.

Q. (BY MR. EDWARDS) Go ahead, Doctor.

MR. UPCHURCH: Join.

Q. (BY MR. EDWARDS) Go ahead.

A. I'm not aware of any -- I'm not aware of anyone who -- who discusses the dangers of an adult being placed in a prone position specifically, but there may be someone.

Q. If the manner in which Mr. Goode was restrained was a contributing factor to his death, why did you not classify this as a homicide?

MR. PHILLIPS: Objection, lack of foundation.

A. I don't -- again, I don't know that it was a contributory cause.

Q. (BY MR. EDWARDS) Are you a member of the National Association of Medical Examiners?

A. No, I'm not right now.

Q. Have you ever been?
A. Yes.
Q. Is it -- is it a reputable organization within the field of forensic pathology?
A. It is, yes.
Q. Are you familiar with "A Guide for the Manner of Death Classification"?
A. I am.
Q. All right.
MR. EDWARDS: We'll mark this as Exhibit 2.
(Exhibit Number 2 marked.)
MR. GASS: Tim, while that's being marked, could you point me to where that subgaleal reference is that you were questioning Dr. Barnhart about.
THE COURT REPORTER: Who's speaking?
MR. EDWARDS: Ric Gass.
MR. GASS: This is Ric Gass. I'm sorry.
THE COURT REPORTER: That's okay.
MR. EDWARDS: Evidence of injury on page 2 of 4.
MR. GASS: And which paragraph?
MR. EDWARDS: Evidence of injury.
MR. GASS: There are three paragraphs under that title.
THE WITNESS: It's the first paragraph.

MR. GASS: I'm wondering which of the paragraphs it's in.

MR. EDWARDS: The one on page 2.

MR. GASS: Page 2 has a section labeled "Evidence of Injury".

MR. PHILLIPS: It's the third sentence of the first -- it's the third sentence under that heading.

MR. GASS: I see it. Thank you.

Q. (BY MR. EDWARDS) Okay. Doctor, have you seen this document before?

A. Yes.

Q. All right. My question for you is this: There are, beginning on page 8, a number of sections to classify deaths; is that correct?

A. I'm not sure. I would have to look at it.

Q. Please. Do you have a copy?

A. No.

Q. Sorry.

MR. EDWARDS: Here you are.

THE WITNESS: Thanks.

A. I'm sorry. Could you repeat the question.

Q. (BY MR. EDWARDS) Yes.

Beginning on page 8, there is a section entitled "Principles and Recommendations For Specific Types of Cases".

A. Yes.

Q. All right. Now, my question for you is -- take your time, but which one of these sections would Mr. Goode fall into?

A. Well, I'll start by saying I don't know that this is -- I don't know that this is intended to be comprehensive. It's meant to be helpful for -- for complicated -- for complicated cases. But let's see if I can find something here.

Q. Well, first, let me ask you this question.

On page 9 under number 4, it says "Deaths directly due to the acute toxic effects of a drug or a poison."

Mr. Goode does not fit into that category, correct?

A. No, because I would not say it -- it's directly and solely attributable to toxic effects. Or I would have simply called it an overdose.

Q. On that -- on that point -- and you obtained a toxicology report, right?

A. I did.

Q. And that toxicology report showed that Mr. Goode had a very small amount of LSD in his system?

A. I believe so, yes.

Q. Here's a copy.

MR. EDWARDS: I'll mark this as Exhibit 3.

(Exhibit Number 3 marked.)

Q. (BY MR. EDWARDS) Actually, it showed that he had -- he had only one nanogram per milliliter; is that right?

A. Yes.

Q. Okay. That's a very small amount, yes?

A. Yes.

Q. And he had -- do you know of a toxic level for LSD?

A. No. I don't think it's been established, and I think LSD in general is -- is not very toxic.

Q. Actually, Doctor, are you familiar with the work of Dr. Gable, G-A-B-L-E?

A. I don't think so.

Q. So your testimony is that a toxic level for LSD has not been established?

A. I'm -- I'm sure he did establish one. Right?

Q. Actually, he didn't. He guessed at 4800 nanograms per liter.

A. Okay.

Q. Which would be 4800 times what Mr. Goode had, right?

MR. PHILLIPS: I'll object to the testimony of counsel and the lack of foundation to the question.

A. In the postmortem samples, yes.

Q. (BY MR. EDWARDS) Okay. All right. And you were -- so we can rule out number 4, right, on page 9?

A. Yes.

Q. Okay. Do you see any of these areas in which Mr. Goode falls?

A. Probably not because, again, this is a rather unusual case. I don't -- I wouldn't expect it to fit neatly into one of these -- into one of these categories. There is a section that does deal with positional restraint and law enforcement officers, and I assume that's the -- the section that you're referring to.

Q. Section 16?

A. Yes.

Q. Would you agree that out of all of these -- how many are there -- 46 categories, number 16 is the most likely description of how Mr. Goode died?

MR. PHILLIPS: Objection, leading.

A. Again, this is completely not comprehensive, even remotely. It doesn't have motor vehicle accidents. It doesn't have heart attacks. It doesn't have cancer. This has a very few very specific scenarios. It's not meant to -- to be something that you say, okay, every death is going to fit into one of these categories.

Q. (BY MR. EDWARDS) Well --

MR. GASS: This is Ric Gass. Could we have a slowly read title of the document that has been given to the witness, please, as Exhibit 2.

MR. EDWARDS: A Guide For the Manner Death Classification, First Edition, National Association of Medical Examiners.

Q. (BY MR. EDWARDS) Now, Doctor, thank you for that. But my question was, out of this document and the 40-some-odd classifications for death, the one in which Mr. Goode would most likely fit is number 16?

MR. PHILLIPS: Objection, leading.

Q. (BY MR. EDWARDS) Is that correct?

MR. PHILLIPS: Objection, leading.

A. There's no way that I can put -- force a case into one of these specific categories that aren't applicable.

Q. (BY MR. EDWARDS) Doctor, my question was is there any more descriptive classification for Mr. Goode's death --

A. Well, this one --

Q. -- than number 16?

A. -- this one mentions -- mentions positional asphyxia and law enforcement, both of which are things that you're concerned with. So I guess, yes, it uses

most of the same words.

Q. Okay. Now, Doctor, the National Association of Medical Examiners recognizes that people may die due to excessive restraints imposed by law enforcement?

A. Of course.

Q. All right. I'll take that.

In your report, you noted that Mr. Goode became unresponsive.

How -- how did you come to have that information?

A. Again, it would have been from some of the records I received.

Q. All right. Did you talk to anyone before signing off on the autopsy report?

A. Anyone?

Q. About the report.

A. I may have spoken to some of the other medical examiners in the office about the case.

Q. And now, what office?

A. In Mississippi. I'm sorry.

Q. Because by the time you signed this report, you were already in Galveston, right?

A. That's right. It was one of the reports that I finished while I was in Galveston.

Q. All right. Why did it take four months post

autopsy to finish the report?

A. Because I believe I sent away -- so we did toxicology, obviously. That report was not issued until September 10th, and then the slides had to actually be mailed to me because I was out of state. And I think -- I don't recall. I thought maybe I had ordered -- I had added on a synthetic cannabinoid screen at some point.

Q. You did, Doctor.

A. Okay.

(Exhibit Number 4 marked.)

Q. And let me pass you that. The highlighting on it is mine. I didn't mean for that to be copied that way, but you can ignore that. But it's entitled a supplemental report, and it was a September 17, 2015 --

A. Okay.

Q. -- is that correct?

A. Yes.

Q. Okay. Now, the -- the first -- the initial toxicology report did not give you the information that you needed in order to establish cause of death?

A. No, I think the way -- I don't recall exactly. But synthetic cannabinoids are a newer -- a newer substance that we're learning more about every day, and I think because of his erratic behavior, I decided it would be a good idea to test for that.

Q. Okay. So you did ask NMS, which is the laboratory up in Pennsylvania, to look specifically what -- for what's known as en bones?

A. I've never heard it referred to that way, but...

Q. How -- how do you refer to it?

A. Synthetic cannabinoids.

Q. And -- and in the street, I think they call it en bones?

A. Oh, okay. No, I wasn't aware of that.

Q. Those -- those can be -- they're synthetic drugs, as I understand it.

A. Okay.

Q. Is that right?

A. They are. They're -- they're -- they are called things like K2 and Spice and Kush and stuff like that.

Q. Okay.

A. They're synthetic cannabinoids. They make some people actually psychotic. So that was why I decided to test for them.

Q. All right. And the test results were negative?

A. They were.

Q. So from the two toxicology screens that you had run, you did not have any pharmacological evidence of

cause of death, would that be accurate?

A. No, I don't think that would be accurate. It's -- it's simply a part of the exam. I would have had the slides mailed to me, looked at them at some point. I was also in the process of moving, starting a new job. My files were packed up. It was just a -- it -- it probably would have done much -- been done earlier if I had not been moving during this process.

Q. Well, my question was, was there any pharmacological cause of death?

A. Yes. I feel -- I feel like we've already covered this. My opinion is that LSD was the underlying or initiating feature in this whole sequence of events.

Q. That's the complications of LSD you referenced?

A. Yes.

Q. And the complications are what caused the hog-tieing, correct?

A. Well, yes, the psychosis.

Q. And so that's -- you consider that a complication of LSD, the manner of restraint?

A. I don't think that he would have been restrained otherwise.

Q. Okay. Well, I'm just asking you, Doctor. I'm just trying to find out what's at the bottom of complications.

And as I understand what you're saying is that the manner of restraint was a complication of LSD?

A. Yes. In addition to -- to -- to other things, yes.

Q. As you've described?

A. Yes.

Q. Do you need to add to or subtract from any of what you've said?

A. No, I don't think so.

Q. All right. The Guide for Manner of Death Classification on page 7 has a section on the but/for principle.

Are you familiar with that?

A. I am.

Q. Well, the question -- the question is, in your opinion, but for the manner of restraint of Mr. Goode, would he have died?

A. No. I would say but for the ingestion of LSD, would Mr. Goode have died.

Q. Because LSD led to the manner of restraint?

A. Yes.

Q. All right. But let me go back. I want to ask this specific question under the name National Association of Medical Examiner's document but/for test.

But for the manner of restraint, is it your

opinion that Mr. Goode would not have died?

A. That is not my opinion.

Q. All right. He would have died even with -- even without being hog-tied?

A. I believe that's a very good possibility, yes.

Q. And what would the mechanism of death have been?

A. Excited delirium.

Q. But he didn't have the -- you didn't put excited delirium?

A. I only have one temperature reading to go off of.

Q. You don't -- what are all the indicia of excited delirium? What are the physiologic findings for a diagnosis of excited delirium?

A. I think I mentioned some earlier. Psychosis, loud outburst, incoherent speech, aggression, paranoia.

Q. Those all sound like different names for the same thing to me as a layperson, an agitated state?

MR. PHILLIPS: I object to the statements and testimony of counsel.

Q. (BY MR. EDWARDS) What -- what aggression did Mr. Goode commit?

A. I'm -- I simply said that is one of the possible features of excited delirium. I'm not accusing

him of being aggressive towards anyone.

Q. Well, what -- what findings on autopsy must you have in order to render an opinion of excited delirium as a cause of death?

A. There aren't any.

Q. There are none?

A. No, there are no definitive autopsy findings for a diagnosis of excited delirium.

Q. So you just put excited delirium down when you can't find something else?

A. I didn't put it down.

Q. You did not have the findings that you as a professional considered necessary to list excited delirium as cause of death?

A. Excited delirium is a largely circumstantial diagnosis.

Q. What does that mean to a lay?

A. It means that there are no specific autopsy findings.

Q. So when do you -- there are no specific autopsy findings.

Well, so when do you use it?

A. Again, when the circumstances suggest excited delirium as the diagnosis. As an example, if you were to find somebody dead on the street, no one had seen

them die, you had no idea what their history was, you could never call that case excited delirium. There's -- there is no specific finding.

Q. Well, from a scientific standpoint, then how can you replicate the conditions which lead to what might ultimately be classified as an excited delirium death?

A. It's -- it's not an experiment. It's not something that needs to be replicated.

Q. Why not? Isn't that the scientific method is you test and retest to see if you get the same result?

A. I think when you're dealing with human lives, there's a slightly different set of criteria.

Q. How do you -- okay. I hear what you're saying, and I respect that.

How do you disprove an excited delirium death?

A. I think one example, if you could show that the person's baseline was erratic behavior and psychosis regardless of whether or not they were on drugs, I think that would be a pretty good indication.

Q. And you bring up a pretty good point.

Erratic behavior can stem from many different things, can't it?

A. Sure.

Q. Okay. If you -- if a person is not hyperthermic, is that a way to disprove the excited delirium diagnosis?

A. One of several.

Q. Would you agree with the statement that until clarification by further study becomes available, the emergency medicine clinician should be aware that tight restraint of agitated patients with the hobble technique is a high-risk procedure that requires measures to avoid positional asphyxia?

MR. PHILLIPS: I object as lacking foundation and qualification for this witness, and also is calling for an expert opinion on a topic on which she's not been disclosed.

MR. UPCHURCH: Join the objection as -- foundation as outside the scope of her province as a treating forensic pathologist in this case.

Q. (BY MR. EDWARDS) Would you -- would you agree or disagree with that statement?

A. I don't feel comfortable commenting on any practice outside of forensic pathology.

Q. After you were educated by Mr. Phillips?

A. I would have said it anyway.

Q. But you didn't.

A. Should I have interrupted?

MR. PHILLIPS: Object to the statements of counsel.

MR. EDWARDS: I object to you getting outside what you're supposed to object to, which is only form, only form.

MR. PHILLIPS: I'm objecting concisely --

MR. EDWARDS: No, you're not.

MR. PHILLIPS: -- and on an appropriate bases. I am.

Q. (BY MR. EDWARDS) Doctor, can you -- from what you have done as a forensic pathologist, tell us what happened in the last eight to minute -- minutes of Mr. Goode's life.

A. I'm sorry. Can you repeat the question.

Q. Yes.

From your work as a forensic pathologist having done the autopsy, can you tell us what happened physiologically to Mr. Goode during that last eight to ten minutes of his life?

A. No.

Q. All right. Now, in this Guide for the Manner of Death Classification that we've marked as Exhibit 2, there is a category for deaths attributable to medical negligence.

Are you familiar with that?

A. Yes, but I'll review it. Which number is it?

Q. Let me see if I can locate it. And you -- you had actually mentioned earlier that this -- this -- these categories didn't cover everything, and you mentioned an automobile accident.

But 27 does, in fact, cover that, right?

MR. GASS: Jim, can you give us the edition of this and the date of it.

MR. EDWARDS: Yeah, I already did. It's the first edition.

MR. GASS: I didn't -- I got -- I asked for the title, but now I'm asking is this edition 1 that was approved in February of 2002?

MR. EDWARDS: Yes, as I previously stated.

MR. GASS: Don't -- Tim, don't get pissy about it. I'm sorry if I missed it.

A. Number 27 actually addresses specifically pedestrians being struck by vehicles, not motor vehicle collisions.

Q. (BY MR. EDWARDS) All right. I'll have to...

MR. EDWARDS: You got it? Yeah, okay.

Q. (BY MR. EDWARDS) I'll come back to that, Doctor.

Would an arterial blood gas result have assisted you in determining the cause of death?

A. I don't think so, no.

Q. What does an ABG tell you?

A. Well, it measures oxygenation in -- in a sort of current metabolic state, which I would expect to be abnormal.

Q. Well, if -- if an ABG taken at the hospital had shown low blood -- low oxygen saturation, would that be information which would have assisted you?

A. It would be helpful.

Q. Don't you typically have ABG results?

A. No.

Q. Look at -- my question back about the medical care, in 21, the National Association of Medical Examiners does have a classification for negligent medical care, does it not?

A. It does.

Q. Okay. And have you ever given an opinion that somebody's death was related to negligence in the healthcare provided?

A. I have not, but I know of a couple of cases from colleagues.

Q. Do you have an opinion, based upon a reasonable degree of medical certainty, as to whether grossly negligent medical care contributed to the death of Mr. Goode?

MR. PHILLIPS: Objection, lack of foundation, qualification and scope.

MR. UPCHURCH: Join the objection.

A. I have an opinion. I don't know that it's an expert opinion.

Q. (BY MR. EDWARDS) What's your opinion?

A. My opinion is that his treatment appeared to be fairly standard, but, again, I don't treat live patients.

Q. Well, as a physician, would you expect his pulse oximetry to be -- or for him to have been monitored with pulse oximetry?

MR. PHILLIPS: Same objection.

MR. UPCHURCH: Join the objection, outside the scope and province of this witness.

Q. (BY MR. EDWARDS) You may answer, Doctor.

A. I -- I have no idea about current treatment protocols, current monitoring protocols, emergency room treatment at all.

Q. Okay. When you have -- have you had cases similar to Mr. Goode before?

A. I have certainly had many cases in which law enforcement are involved. I have had cases of excited delirium, and I have had cases where I did attribute the cause of death to positional asphyxia.

Q. And -- okay. And in those cases where you listed positional asphyxia as the cause of death, what were the findings on autopsy that you used to support that diagnosis?

A. A lot of it is circumstantial, seeing how a decedent was found, for example.

Q. I'm sorry. The way a decedent?

A. A decedent was found. For example, if they're stuck in a -- in an awkward-type position that restricts their breathing. Infants, it's not terribly uncommon, unfortunately, to die from positional asphyxia if they fall into something or fall into a corner between a wall and a mattress.

It's also not terribly uncommon that a person will be put in a choke hold and the person administering that choke hold holds it until, for example, the police arrive. I've had that -- a case where that happened. Those are probably the -- the main positional asphyxia cases that I've had.

Q. Okay. And you've already told us about the lack of pathological finding for excited delirium; is that correct?

A. That's correct.

Q. Yeah. Okay.

According to the National Association of

Medical Examiners, over 70 percent of medical examiners have been subjected to pressures to influence the opinion put in the autopsy report.

Would you agree with that?

A. I have not heard that statistic. It seems quite high.

Q. Have you ever been pressured to put a result in an autopsy report?

A. I have not.

Q. Were you contacted by any representative of the City of Southaven before you signed off on this autopsy report?

A. No.

Q. Did -- did you talk to the coroner in DeSoto County?

A. I would have spoken to the coroner -- not before I signed off on it, but I would have spoken to him probably the day of the case.

Q. Did -- did you talk to anyone at Baptist Memorial Hospital before you signed off on the report?

A. No.

Q. Now, did you ever confer with Mrs. Goode about your findings?

A. No.

Q. Are you ethically obligated to do that?

A. No. I -- I -- if someone -- if a family member calls me and would like to talk about a case, I generally do.

Q. Did you -- did you provide Mrs. Goode with the preliminary autopsy findings?

A. I don't know. That's something that would have been done by our administrative staff at the office. I think it was -- I think it was standard practice. I'm not -- I'm not certain.

Q. Are you a member of the American Medical Association?

A. No.

Q. Why not?

A. Because it's extremely expensive. I do have their life insurance, though.

Q. Well, were you willing to relate the information about your autopsy to Mrs. Goode?

A. Was I willing to?

Q. Yes.

A. Yes, I believe that if she's legal next of kin, I think she would have automatically been sent a copy of the report.

Q. She should have been, right?

A. I -- I think that was standard practice in the office, but, again, I'm not sure. I -- that's not

something I personally would have done or been responsible for.

Q. When you looked at Dr. Di Maio's book, did you look at the section that we talked about about classification of deaths that may be caused by excited delirium?

A. I did briefly, yes.

Q. All right. Do you agree that Dr. Di Maio says that if that's your conclusion, it should be put in the autopsy report?

A. He -- he says -- he uses the word suggests. Again, it's just a suggestion.

Q. Has the National Association of Medical Examiners taken an official position as to whether or not excited delirium is a valid medical diagnosis?

A. I -- I don't know that they have.

Q. In excited delirium death cases, is there ever a finding that you'd been involved in -- is there ever a finding before death of low oxygen saturation?

A. In excited delirium cases that I've done?

Q. Yeah.

A. I -- I wouldn't remember that.

Q. Okay. If there is a finding of low oxygen saturation, does that preclude a finding of excited delirium?

A. I wouldn't think so, no.
Q. Do you know?
A. It would not preclude me personally from making that diagnosis, I can say.
Q. Were you aware before signing this report that Mr. Goode had had findings above low oxygen sats and supraventricular tachycardia?
A. I don't recall if I knew that. If it was in the hospital records, I presumably saw it.
Q. Are those findings important to you as a forensic pathologist?
A. They would be helpful.
Q. How would they be helpful?
A. Again, I'm not sure that -- I don't know that it would change my diagnosis, but, sure, I mean, I suppose any additional results are potentially helpful.
Q. Is a diagnosis of complications of LSD as a cause of death a -- something we can find in the medical literature as a reliable diagnosis?
A. The cause of death -- manner of death is limited to five categories. Cause of death is infinite. You can say any combination of words you want.

So -- so I'm not sure how to answer that. I guess you could Google it.
Q. Well, let me ask you more pointedly.

If you had found that the manner of restraint had caused or contributed to the cause of death, shouldn't you have classified the death as a homicide?

A. If I believed it caused the death, yes.

Q. If it contributed to the death?

A. I'm not convinced that it did.

Q. Well, I'm not -- what is your position on that? Because you said that -- that he died of complications of -- of LSD, right?

A. Right.

Q. And you said that the hog-tie was a complication of LSD, right?

A. It was associated with the LSD intoxication, yes.

Q. Well, is it a complication of the LSD?

A. I'm not convinced that it was.

Q. Well, Doctor, with all due respect, earlier you said that it was.

Was it or wasn't it?

A. I said I believe that the fact that he was restrained was secondary to his intoxication.

Q. Okay. So is that a complication of the LSD?

A. The restraint themselves is, but I'm not convinced that it contributed or caused his death.

Q. Are you convinced that it did not?

A. I'm more convinced -- I'm more convinced that it didn't than it did.

Q. And what's the basis for that?

A. My past experience and the -- the current literature on positional asphyxia deaths.

Q. Okay. Good.

What -- what current literature are you referring to?

A. There are a couple of articles by a guy named Chan, C-H-A-N. One, he's the first author; one, he's a coauthor. But they basically take healthy subjects, restrain them, maximally, I suppose, put weights on their back, et cetera, and then check their vital signs. And they didn't really show that their breathing was restricted.

Q. How long did they leave them in that position?

A. I don't recall. It's been -- it's been a while since I read the articles.

Q. How long was Mr. Goode restrained maximally in a prone position?

A. I don't recall. I think maybe a couple of hours.

Q. Did the Chan and Newman studies use people that were asthmatic?

A. Probably not.

Q. Why not? Why wouldn't they have done that?

A. I don't think it would be ethical to do the study on somebody that had a health problem.

Q. Does -- were you aware that Mr. Goode was asthmatic?

A. I was not. And no, and I -- I heard about that, I believe, in a news article at some point, but I was not told that he was asthmatic.

Q. Isn't that something you would have liked to have known?

A. It would have been helpful, yes. Although, asthma has fairly typical features, grossly and histologically, neither of which I saw.

Q. Is asthma -- asthma is a condition that affects breathing, right?

A. Yes.

Q. And putting somebody in a prone position restricts breathing; is that correct?

A. Potentially.

Q. It compresses -- compresses the diaphragm and the intercostal muscles -- can?

A. It can.

Q. And the diaphragm and intercostal muscles are those which make you breathe, right?

A. Yes.

Q. Did you give a presentation to the University -- University of Mississippi Medical Center on the subject of when is a heart attack a homicide?

A. Yes.

Q. And what was your conclusion in that?

A. I didn't have a conclusion. It described a series of criteria that was outlined ages ago by Joe Davis in Miami which is where I trained. And he outlined a set of criteria in cases where a heart attack may be considered a homicide. And I became interested in that because I had a relevant case during my training in Miami.

Q. Heart attacks -- heart attacks can be considered homicide when they cause an arrhythmia that is induced by physical or emotional stress provoked by altercation with another person or a restraint; is that fair?

A. Among other things.

Q. Yeah. Okay.

MR. EDWARDS: We've been going on hour and a half. Would you like to take a break?

THE WITNESS: I'm okay if y'all are.

MR. MCCRACKEN: I think I need to take a break.

THE VIDEOGRAPHER: This ends media 1. Off record 1:04.

(Recess from 1:04 p.m. to 1:15 p.m.)

THE VIDEOGRAPHER: This begins media 2. On record 1:15.

Q. (BY MR. EDWARDS) Doctor, did you make a determination about Mr. Goode's dopamine transporter levels?

A. No.

Q. So you can't say one way or the other whether they were elevated?

A. No.

Q. All right. Did you find any evidence that Mr. Goode had an elevation of heat shock protein 70 in his brain?

A. No.

Q. You did not?

A. No. Those tests are all far beyond our -- our little state's capabilities.

Q. Okay. Is elevation of heat shock protein 70 an indication of excited delirium?

A. I've heard that some of those areas are being studied, but I don't know anything else about it beyond that.

Q. Okay. Did you receive any information about

eyewitness reports of the taking of Mr. Goode into custody?

A. Did I receive eyewitness reports?

Q. Yes. Did you have that information?

A. No.

Q. All right. If a witness had described Mr. Goode with a very red face, eyes bulging and laboring for breath, is that information which would have been helpful to you?

A. It would have been helpful. Again, all information is -- is helpful.

Q. Were you provided that information?

A. I was -- I was not, no.

Q. Well, before you render an opinion as to cause of death, do you as a forensic pathologist want to have all information available?

A. Well, as much as possible, but I don't interview eyewitnesses.

Q. Doctor, I'm -- I'm not being critical. I'm just asking what you had.

A. All -- all information is helpful.

Q. Did you -- were you made aware that Mr. Goode was injected with Haldol and Ativan?

A. Yes, if not through medical records. I assume I was made aware through medical records and then from

-- clearly from his toxicology report as well.

Q. Okay. Did Haldol and Ativan contribute to the cause of death?

A. No.

Q. Do you know anything about the clinical treatment for excited delirium?

A. No.

Q. All right. So the -- I want to make sure I understand your testimony.

You did not have the evidence to put excited delirium as the cause of death; is that correct?

A. I felt that by using the term I did, I would encompass excited delirium underneath that category.

Q. Then why didn't you put excited delirium in there?

A. Well, because I did -- I did wish that I had a little bit -- I did wish that I had a documented hypothermia.

Q. You did not have the pathological findings to make you comfortable in assigning the cause of death as excited delirium?

A. Well, there are no pathologic findings. I didn't have the -- the antemortem data that would have make me -- made me completely comfortable making that diagnosis.

Q. Well, you don't -- forensic pathologists are never completely comfortable unless it's just something very obvious that killed the person, correct?

A. Well, and a lot of times, it is really obvious.

Q. Right. But, again, why didn't you put excited delirium as cause of death if you're throwing that in under the umbrella of complications of LSD?

A. Because I didn't have the hypothermia.

Q. Which is always present with excited delirium?

MR. PHILLIPS: Objection, asked and answered.

MR. UPCHURCH: Join the objection, multiple times.

Q. (BY MR. EDWARDS) Correct?

A. I have answered the question.

Q. And your answer is yes?

A. My answer is that, to my knowledge, it is a -- a pretty typical feature of excited delirium.

Q. Not pretty typical.

It's always present with excited delirium?

A. I don't know that.

Q. Do you have any basis for saying that it's not always present?

A. Excited delirium is a relatively new topic. It's a relatively new syndrome to be described. And in

saying every single case is a pretty bold statement. I'm not sure that we're at that point yet.

Q. Doctor, excited delirium has been diagnosed since the 19th Century in psychiatric patients, has it not?

A. It has, but in relation to drug use and law enforcement involvement, it's become a more recent issue.

Q. Right. But originally in the 19th Century, there were reports of excited delirium in psychiatric patients, and then it -- with the advent of cocaine, there became reports of excited delirium related to stimulant drugs, particularly cocaine and amphetamines; is that accurate?

A. I'll take your word for it.

Q. Well, you -- all right.

What are the other complications of -- let -- let's list every complication of LSD that you say caused Mr. Goode's death. Give me every one.

A. I don't think I -- I didn't intend it to be a list. It's a -- some -- it's generally physiologic and -- and metabolic derangement that -- that ultimately led to his death.

Q. I'm -- Doctor, I'm just using your words. It says complications of LSD.

A. Well, if there was a list, I would have provided a list.

Q. Well, what did you mean -- that's what we're here for. What did you mean that complications of LSD caused the death?

A. I meant all of the physiologic metabolic derangements that occurred subsequent to his ingestion of LSD.

Q. And that's what I want to know.

What were those?

A. I can't -- I don't know that I can list every one, but obviously, a probable arrhythmia is going to be one. Lactic acidosis might be one. Electrolyte imbalance may be one. Hypothermia may be one.

Q. But it was not?

A. Not based on the one reading I had.

Q. Do you have any -- any information that he was acidotic?

A. I don't recall. It could have been in the medical records.

Q. What testing was done at the hospital to determine his physical state?

A. I don't recall.

Q. Okay. So go ahead with your list. You've listed three or four.

A. Yeah, I think -- we'll just -- let's just go with those.

Q. Okay. Could you tell me again, please. Give me the ones that you say. Acidosis. We didn't have hypothermia, and we don't --

A. Arrhythmia.

Q. Arrhythmia, which you know he was in well before arriving at the hospital?

A. And electrolyte derangements.

Q. Did he have electrolyte derangements?

A. I don't recall.

Q. Well, where would we find it? Is it mentioned in your report?

A. No. It would have been in his medical records.

Q. So would you agree that the way you phrase the cause of death is not very helpful?

A. The cause of death is meant to be -- it's not meant to be a physiologic mechanism. It's -- it's meant to be -- and it's -- and it's not meant to be -- to be a list.

So when you say somebody died from blunt force trauma, you don't go through and say, oh, well, they lost blood or they had a contusion of their heart or a laceration of their liver. It's -- the cause of death isn't intended to describe a mechanism -- a

physiologic mechanism.

Q. What is the purpose of an autopsy report?

A. To list the findings -- to list the findings --

Q. The purpose --

A. -- at autopsy.

Q. Sorry.

The purpose of an autopsy report is to give a cause of death; right?

A. Yes.

Q. And somebody reading your autopsy report is going to say complications of LSD, what's that, right?

A. I don't know.

Q. Well, my question -- going back to my question. Another physician reading your autopsy report is going to be told nothing about what caused Troy Goode to die.

Do you agree or disagree?

A. Not mechanistically. That's not what the autopsy is meant to do.

Q. Well, somebody reading your report, are they going to conclude that toxicity of LSD killed Mr. Goode?

MR. PHILLIPS: Objection, calls for speculation.

A. I -- I think they would conclude that LSD ingestion led to his death.

Q. (BY MR. EDWARDS) How is what --

A. Again, that --

Q. -- that question is about.

A. -- that's the mechanism. That's not -- that's not the point of the autopsy. The autopsy is to list the physical findings which are listed here.

Q. The -- the point of the autopsy is for legal purposes, is it not?

A. For vital statistic purposes.

Q. Yeah. And it also -- you know that -- that autopsies are often used in criminal cases in court, right?

A. Yes.

Q. And you know that if the autopsy report in this case -- and it said homicide, somebody could have gotten indicted for it, right?

A. That's possible.

Q. And you know that if this death was caused by the manner of police restraint and the length of time he was left in that restraint, that should have been classified as a homicide, correct?

A. If death was cause to that, then, yes, I would have called it a homicide.

MR. EDWARDS: One minute, Doctor.

Q. (BY MR. EDWARDS) Was asphyxia a complication of LSD?

A. I don't believe that he asphyxiated, so I would say no.

Q. If he did asphyxiate, would -- could that have been caused by LSD?

A. If he did asphyxiate? He could have asphyxiated from any number of reasons.

Q. Does any number of reasons include LSD?

A. I'm sorry. I guess I don't understand the question.

Q. Isn't the answer, no, that LSD doesn't cause asphyxiation?

A. I'm sorry. What was the question?

Q. I said isn't the answer to the question does LSD cause asphyxiation no?

A. I would have to hear the original question.

Q. The question was -- this is the original question.

Does LSD cause asphyxiation?

A. Not in and of itself, no.

Q. Okay.

MR. EDWARDS: I'll pass the witness.

MR. PHILLIPS: Dr. Barnhart, I'm Marty Phillips, and in this case I represent Dr. Oliver.

E X A M I N A T I O N

BY MR. PHILLIPS:

Q. Your responsibility in doing the autopsy of Mr. Troy Goode was to fulfill your role as the chief deputy medical examiner in the state of Mississippi, right?

A. Yes.

Q. And to determine the cause of his death, right?

A. Yes.

Q. And to list that cause of death in an autopsy report, right?

A. Yes.

Q. You, in fact, prepared an autopsy report that has been marked as Exhibit 1 to your deposition by Mr. Edwards, correct?

A. Yes.

Q. And on the document you prepared, you listed the cause of death as complications of LSD toxicity, right?

A. Yes.

Q. That was the conclusion that you reached in your capacity as chief deputy medical examiner for the state of Mississippi relative to the death of Mr. Troy Goode, right?

A. Yes.

Q. You came to that opinion after being provided with some information about the day of Mr. Goode's

death, right?

A. Yes.

Q. You came to that opinion and conclusion having been provided with a copy of some records, including those from Baptist Hospital, right?

A. Yes.

Q. You came to that conclusion after personally examining the body of Mr. Troy Goode, right?

A. Yes.

Q. You came to that conclusion after carefully inspecting his internal organs, right?

A. Yes.

Q. You came to that conclusion after microscopically evaluating tissue from Mr. Goode's body and organs, right?

A. Yes.

Q. You came to that conclusion after doing -- or having done toxicology studies to tell you about the drugs that were in Mr. Goode's system at the time of his death, right?

A. Yes.

Q. And with the benefit of all that information, you concluded that the cause of death was complications of LSD toxicity, right?

A. Yes.

Q. And is that still your opinion today?
A. It is.
Q. To a reasonable degree of medical certainty?
A. Yes, it is.
Q. You concluded also that the manner of death was an accident, right?
A. Yes.
Q. You recorded that in your autopsy report?
A. Yes.
Q. Is that still your opinion as to the manner of death today to a reasonable degree of medical certainty?
A. Yes.
Q. The toxicology screen that was performed at your direction indicated the presence of marijuana in Mr. Goode's body, right?
A. Yes.
Q. That is an illegal drug, isn't it?
A. Yeah.
MR. EDWARDS: Objection to the form. What state?
Q. (BY MR. PHILLIPS) In the state of Mississippi in July of 2015, was it an illegal drug, Doctor?
A. Yes.
Q. And you knew that because of your work in that state at the time, right?

A. Yes.

Q. The toxicology screening also showed the presence of LSD, didn't it?

A. Yes.

Q. That too is an illegal drug in the state of Mississippi in July of 2015?

A. Yes.

Q. LSD is a DEA schedule I substance, isn't it?

A. It is.

Q. What does that mean?

A. It means that it has no therapeutic -- no known therapeutic value.

Q. It causes panic and paranoid reactions, among other things?

A. Yes.

Q. And one can have those reactions to LSD or have what might be characterized as a bad trip even if one has not taken a high dose of LSD, right?

A. That's my understanding, yes.

Q. But for the ingestion of LSD, Mr. Goode would not have died, correct?

A. That's my opinion, yes.

Q. That is your opinion to a reasonable degree of medical certainty, isn't it?

A. Yes.

Q. You were asked several questions by Mr. Edwards concerning literature, can you point to any literature, can you cite any literature.

Remember those type of questions?

A. Yes.

Q. Were you asked by Mr. Edwards before the deposition today to locate and bring literature with you to discuss?

A. No.

Q. Have you had any opportunity to look for or locate literature?

A. No.

Q. Mr. Edwards asked you about the findings of edema in Mr. Goode's lungs.

Remember those questions?

A. Yes.

Q. I think I understood you to say that that is not an uncommon finding at the time of autopsy?

A. That's correct. It's very common.

Q. And in Mr. Goode's case, you did not relate the pulmonary edema or the fluid in his lungs to asphyxia, did you?

A. No. Again, it's -- it's a non-specific finding.

Q. You were also asked about congestion in the

liver, kidneys and spleen.

Remember those questions?

A. Yes.

Q. That too is a non-specific finding, right?

A. Correct.

Q. It is not an uncommon finding at the time of autopsy, is it?

A. That's correct.

Q. You did not relate the finding of congestion in the liver, kidney and spleen to Mr. Goode to asphyxia in this case, did you?

A. No.

Q. Did you find any petechiae around his eyes?

A. No.

Q. You were asked questions about petechiae around the eyes, but there were none found in Mr. Goode, were there?

A. No.

Q. Even though you didn't conclude that Mr. Goode overdosed on LSD, you still think LSD was the precipitating cause of his death as you've described here today, right?

A. I do.

Q. In your autopsy report, which has been marked as Exhibit 1, you did not attribute Mr. Goode's death to

the manner in which he was restrained, did you?

A. I did not.

Q. It has not been your intention today in response to any question asked to criticize the care provided by the emergency room physician, Dr. Oliver, has it?

A. No.

Q. Are you board-certified, Doctor?

A. I am.

Q. By what boards?

A. The American Board of Pathology in anatomic pathology, clinical pathology and forensic pathology.

Q. How long have you held those board certifications?

A. Anatomic and clinic pathology since 2009; forensic pathology since 2010.

Q. In the years that you have been working as a forensic pathologist, will you tell us the approximate number of autopsies you've been involved with.

A. At last count, I think about 2800. That's out-of-date. I would say it's closer to 32 or 3500 at this point.

Q. In the office where you now work in Galveston County, Texas, about how many autopsies a year does that office perform?

A. About 1200.

Q. When you concluded that Mr. Goode died of complications of LST -- LSD toxicity, did you rely upon your education and training as a forensic pathologist to reach that conclusion?

A. I did.

Q. When you concluded that Mr. Goode died of LSD toxicity -- complications of LSD toxicity, did you rely upon your experience as a forensic pathologist?

A. I did.

Q. Okay. Have the opinions that you've expressed in response to my questions been given to a reasonable degree of medical certainty?

A. Yes.

MR. PHILLIPS: Thank you, Dr. Barnhart.

MR. UPCHURCH: Doctor, good afternoon. My name is David Upchurch. We met prior to your deposition today. Let me follow up briefly on the questions that have been asked to you regarding the petechiae.

E X A M I N A T I O N

BY MR. UPCHURCH:

Q. As I understand your discussion with Mr. Edwards at the onset of your deposition, when one has a diagnosis of asphyxia, did I understand correctly that typically, pathological findings will include

petechiae in the eyelids or conjunctivi?

A. Yes.

Q. If we look at your autopsy report on page 2 under external examination, the petechiae that you noted were on the back and lateral torso, correct?

A. Yes.

Q. You did not find upon your external examination any ocular facial petechiae hemorrhages, did you?

A. No.

Q. Nor did you find any plural hemorrhages in your evaluation?

A. No, I did not.

MR. UPCHURCH: Thank you, ma'am. That's all I have for you.

MR. EDWARDS: Brad?

MR. DILLARD: Yes, sir.

Doctor, my name is Brad Dillard. I'm one of the attorneys for the Southaven defendants.

E X A M I N A T I O N

BY MR. DILLARD:

Q. And I simply want to be sure I understand your testimony.

Am I correct it is not your intention to criticize, nor have you criticized, the actions of the Southaven Police Department or the Southaven EMS in

regard to their interactions with Mr. Troy Goode?

A. No, that's not my intention.

Q. And you, in fact, have offered no such criticisms, correct?

A. Not to my knowledge, no.

MR. DILLARD: Thank you.

MR. JORDAN: This is Trey Jordan on behalf of Southeast Emergency Physicians. I do not have any questions of the doctor at this time.

MR. EDWARDS: Doctor, very briefly, let me follow up.

F U R T H E R E X A M I N A T I O N

BY MR. EDWARDS:

Q. You were asked about marijuana.

Marijuana played no part in this death, did it?

A. I don't believe it did.

Q. How many states have legalized marijuana now?

A. I don't know.

Q. It's in excess of 20, isn't it?

A. I don't know.

Q. Are you an LSD expert?

A. No.

Q. You've never written on LSD?

A. No.

Q. You've never tested LSD?
A. I -- I've tested for it.
Q. Right. But you've -- have you ever done testing of subjects on LSD?
A. No.
Q. Do you know who Timothy Leary was?
A. I do.
Q. At Harvard?
A. Yes.
Q. Do you know who Al -- Aldous Huxley was?
A. Yes.
Q. Both of them were big proponents of LSD?
A. Yes.
Q. Okay. You didn't know that Mr. Goode was asthmatic?
A. Again, I found that out somehow later, I believe, through a media article or something.
Q. You weren't told that the police were given his rescue inhaler at the scene?
A. No, I don't recall ever being told that.
Q. Okay. You weren't made aware of the independent witness who saw Mr. Goode in the hospital and what she said about his condition?
A. No.
Q. You said the -- in response to one of

Mr. Phillips' questions, the precipitating cause of the death was LSD?

A. Yes.

Q. That's true in every police custody case, that there is some precipitating cause that gets the police to bind the suspect, right?

A. I would think so.

Q. So you could say the precipitating cause in any case was alcohol or public unruliness or whatever, right? You could say that in any case involving police excessive force?

A. I wouldn't attribute a death to being unruly.

Q. Well, let's -- let's assume you have a case involving alleged police excessive force. The police got involved with the person that died for some reason.

Would you agree?

A. Yes.

Q. So in every case involving police excessive force, you could say the precipitating cause was public drunkenness, for instance?

A. I wouldn't be able to make that generalization. I mean, it -- it would depend on what type of interaction occurred with the police. Obviously if the police shot someone, that's a very different situation.

Q. Well, that's a -- that's a good analogy.

Let's suppose somebody is -- is drunk in public and raising Cain and making a nuisance of themselves. Somebody calls the police and the police arrive and shoot the person.

In that case, would you say that the precipitating cause was the public drunkenness?

A. No. But I think you're comparing being shot to being restrained, which I've already said I don't feel that that was the cause of death, or a contributory cause --

Q. I -- I know --

A. -- of his death.

Q. -- you said that, but you said that the precipitating cause in response to Mr. Phillips' question was LSD. Well, the man who was shot over in South Carolina, the precipitating cause was he was drunk in public and then he was shot.

And so my question is, in that case, would you say the precipitating cause was the man being publicly unruly and drunk?

MR. PHILLIPS: Object to the statements and testimony of counsel and also the foundation of the question.

MR. UPCHURCH: Join --

A. I would --

MR. UPCHURCH: -- the objection.

A. I would say no, because, again, I don't think being restrained and being shot are analogous.

Q. (BY MR. EDWARDS) All right. Well, let's say -- let's say that somebody's publicly drunk. And by -- by the way, you agree that the most abused drug in the United States by far and away is alcohol, correct?

A. Yes.

Q. No question about that, right?

A. I would think so.

Q. Yeah. All right.

Well, let's -- let's say that somebody is drunk, some college kid at UT and he's...

MR. MCCRACKEN: They don't drink at UT.

Q. (BY MR. EDWARDS) A&M. A&M. And so the cops show up and bind him in such a fashion that he ultimately dies from that.

Was the precipitating cause alcohol, in your mind?

A. Again, you're attributing someone's death to the way in which they were bound, which I would have to know more about that history.

Q. Doctor, you said that the precipitating cause was LSD.

The precipitating cause of Mr. Goode being

bound was because he was having a bad trip, right?

A. Because he was psychotic, yes.

Q. Okay. And so can you be psychotic from alcohol?

A. I suppose so.

Q. Yeah. Can you be psychotic from cocaine?

A. Sure.

Q. You can be psychotic because of mental health issues?

A. Sure.

Q. And so in those cases -- let's say this. Suppose he had been mentally ill.

Would you have put as his cause of death mental illness as the precipitating cause?

A. If -- if I believed that he had an excited delirium-type picture and I believed that -- depending on the way he was restrained, that the restraints did not cause his death, then, yes, I would make it the underlying cause.

Q. The -- the mental disease?

A. If I believed that that was what precipitated an excited delirium-type picture.

Q. Okay. And -- and precipitated the police involvement? I'm using police involvement in these cases.

A. Right. Then -- then, yes, assuming that I didn't believe that the police restraint, whatever that was, was non-lethal.

Q. Aren't you -- in these cases what you're doing, you're blaming the victim, aren't you?

A. It's not my job to blame anyone. That's...

Q. It's your job to tell the truth so that the public record will know why a person died, right?

A. Yes.

Q. And what you've said here tells the public nothing, does it?

MR. PHILLIPS: Objection, argumentative.

MR. UPCHURCH: Join.

Q. (BY MR. EDWARDS) You may answer.

A. I guess it depends on what the public wants to hear.

Q. Have you ever listed as a cause of death, you personally prior to this, complications of LSD toxicity?

A. No, but I have listed complications of other drug toxicities many times.

Q. Like cocaine?

A. And others or mixed drug toxicity.

Q. Stimulant drugs?

A. No, also depressive-type drugs.

Q. Like what?

A. Alprazolam, Bentazepam, opioids, morphine, Soma, Tramadol. There's -- mixed drug toxicities are very common.

Q. When you have excessive doses, right?

A. Not necessarily. It would depend on the combination.

Q. Oh, you might -- you -- you're talking about drug interactions?

A. Yes, or just cumulative effect.

Q. Okay. What cumulative effect was present with Mr. Goode?

A. I never said there was a cumulative effect.

Q. So your answer is none, right?

A. No, I -- I didn't attribute his death to any sort of cumulative effect.

Q. Have you ever heard of any forensic pathologist listing cause of death as complications of LSD?

A. No.

Q. Did you rely upon the Chan and Newman studies to conclude that the manner of a restraint was not the cause of death here?

A. I wouldn't say I relied on them, but it's -- I mean, they -- they are studies that -- that influence the way I think in general. I don't know that I pulled them out specifically for this case.

Q. Can you tell us about the similarities of those studies to the facts of this case?

A. No. I haven't read them in years.

Q. So the Chan and Newman studies may be factually totally dissimilar to this case?

A. That's possible. Again, I don't -- I haven't read them in -- in years.

Q. Okay.

MR. EDWARDS: That's all I have, Doctor. Thank you.

F U R T H E R E X A M I N A T I O N

BY MR. PHILLIPS:

Q. Dr. Barnhart, as a forensic pathologist, do you have expertise pertaining to drugs in general?

A. In general, yes.

Q. And including LSD?

A. In general, yes.

Q. And in your particular examination of Mr. Troy Goode, you actually looked at and felt his lungs, didn't you?

A. I did.

Q. And when you did that, there was no evidence at all of asthma, was there?

A. No.

Q. And in addition to looking at his lungs and

feeling of his lungs, you also took portions of tissue and analyzed them carefully under a microscope, didn't you?

A. I did.

Q. And when you did that, there was no evidence at all of asthma, was there?

A. No.

MR. PHILLIPS: Thank you.

F U R T H E R E X A M I N A T I O N

BY MR. EDWARDS:

Q. Doctor, did you find any ductal over-insufflation and alveoli collapse? Did you look for those things?

A. I'm sorry. Can you repeat the first part?

Q. Yes.

In your -- did you do a microscopic study of the lung tissue?

A. Yes.

Q. Did you find any evidence of alternating zones of ductal over-insufflation and alveoli collapse? I'm sorry.

A. Yes.

Q. You did find that?

A. I did.

Q. Those are characteristic -- I'm sorry. I've

got a frog in my throat.

Those are characteristically present in cases of death by suffocation, correct?

A. This is the first time suffocation's been brought up. Suffocation is a completely different thing from anything we've talked about.

Q. Well...

A. And the -- and the alternating areas of the hyper -- hyperextension and atelectasis are very non-specific. And, again, as I mentioned, a lot of it has to do with the physical contact we had with the lung tissue which compresses portions of it and ruptures other portions of it.

Q. Doctor, my question stands. I understand that we haven't talked about suffocation, but the question stands.

In cases of -- of -- let me read it to get it correctly -- ductal over-insufflation and alveoli collapse, those are always found where death is determined to be by suffocation?

A. I don't know.

Q. Is the American Journal of Forensic Medical Pathology a reliable periodical in your field?

A. It's -- it's one of many that's -- that may be useful.

Q. Is it peer-reviewed?

A. Some of the articles are; some aren't.

Q. Is it considered authoritative?

A. Again, it would depend on the article.

Q. All right. Are you saying that the American Journal of Medical Pathology might publish an article that was not authoritative?

A. Yes, as would many journals.

Q. Okay.

MR. EDWARDS: Thank you.

THE VIDEOGRAPHER: Done?

This concludes today's deposition. Off record 1:53.

MR. JORDAN: This is Trey Jordan. I would like just a copy of the transcript, the transcript only with a keyword index. That's all I need.

MR. DILLARD: This is Brad Dillard. I would like a regular and a condensed version.

MR. GASS: This is Ric Gass.

Marty, would you order for us.

MR. PHILLIPS: Yes. I'll --

MR. GASS: Be sure the condensed and also a copy of the video.

MR. PHILLIPS: Yeah, I'll handle our order. Thank you.

MR. GASS: Okay. Thank you.

MR. DILLARD: This is Brad again. I would like a copy of the video as well, please.

MR. UPCHURCH: David Upchurch would like a copy of the transcript with a condensed as well, please, and I would like a copy of the video too.

MR. EDWARDS: Same here for the plaintiffs.

MR. PHILLIPS: That's what I want, the full thing, the condensed and the video and, of course, the exhibits.

(Proceedings concluded at 1:56 p.m.)

CHANGES AND SIGNATURE

WITNESS NAME: ERIN BARNHART, M.D.

DATE OF DEPOSITION: SEPTEMBER 20, 2017

PAGE	LINE	CHANGE	REASON

I, ERIN BARNHART, M.D., have read the foregoing deposition and hereby affix my signature that same is true and correct, except as noted above.

_____

ERIN BARNHART, M.D.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION

KELLI DENISE GOODE, Individually, and also as the Personal Representative of Troy Charlton Goode, Deceased, and as Mother, Natural Guardian, and Next Friend of R.G., a Minor, and also on behalf of all similarly situated persons, Plaintiff,	)	
v.	)	Civil Action No. 3:17-cv-060-DMB-RP
THE CITY OF SOUTHAVEN, et al., Defendants.	)	

REPORTER'S CERTIFICATION

DEPOSITION OF ERIN BARNHART, M.D.

September 20, 2017

I, Julie R. Borski, Certified Shorthand Reporter in and for the State of Texas, hereby certify to the following:

That the witness, ERIN BARNHART, M.D., was duly sworn by the officer and that the transcript of the oral deposition is a true record of the testimony given by the witness;

That the original deposition was delivered to Mr. Tim Edwards, Custodial Attorney.

That a copy of this certificate was served on all parties shown herein on _____.

I further certify that pursuant to FRCP Rule 30(f) (1) that the signature of the deponent:

_X_ was requested by the deponent or a party before the completion of the deposition and that signature is to be returned within 30 days from the date of receipt of the transcript. If returned, the attached Changes and Signature Page contains any changes and the reasons therefore.

___ was not requested by the deponent or party before the completion of the deposition.

I certify that I am neither attorney or counsel for, related to, nor employed by any of the parties or attorneys in the action in which this proceeding was taken. Further, I am not relative or employee of any attorney of record in this cause, nor am I financially or otherwise interested in the outcome of this action.

Certified to by me this 3rd day of October, 2017.

Julie R. Borski, Texas CSR 9311
Expiration Date: 12/31/17
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